Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
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Jurisdictional Separations and Referral to Federal-State Joint Board	)	CC Docket No. 80-286
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Reply Comments of
Rock Hill Telephone Company d/b/a Comporium Communications, Lancaster Telephone Company d/b/a Comporium Communications, and Fort Mill Telephone Company d/b/a Comporium Communications (Comporium)

Rock Hill Telephone Company d/b/a Comporium Communications, Fort Mill Telephone Company d/b/a Comporium Communications, and Lancaster Telephone Company d/b/a Comporium Communications (collectively "Comporium") hereby submit these reply comments to the Federal Communications Commission ("FCC" or "Commission") in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.[1]

The Comporium companies are rural local exchange carriers ("RLECs") that collectively provide wireline telephone service to over 100,000 access lines in portions of York, Lancaster, Chester, and Kershaw counties in the South Carolina Piedmont region. The Comporium companies are rural telephone companies as defined in 47 U.S.C. Sec. 153(37). In addition to local telephone service, the Comporium companies and their affiliates provide a wide array of communications services, including dial-up and high-speed internet, long distance, wireless, and video programming services to rural consumers.

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[1] *Jurisdictional Separations and Referral to the Federal-State Joint Board,* Docket No. 80-286, Order and Further Notice of Proposed Rulemaking, FCC 06-70 (released May 16, 2006).

The Comporium companies are rate-of-return regulated at the interstate level and would be impacted by any action the Commission takes regarding the reform of the cost separations regulations. We urge the Commission to extend the freeze on jurisdictional allocation factors until intercarrier compensation and universal service issues are decided. We also believe carriers should have an opportunity to adjust their category relationships since those elections were made five years ago with the assumption that new rules would be in place. Correcting an error of omission in the dial equipment minutes ("DEM") weighting regulations should also be considered. Finally, Comporium requests the Commission not prescribe a new data request in the name of furthering the record on separations, but rather use currently available information for any required analysis.

I. Extend the Factor Freeze and Defer Reform Until Intercarrier Compensation and Universal Service Issues are Settled

Comporium concurs with the many commenters who state that the current separations regulations should remain in place for rate-of-return carriers, and the freeze on allocation factors should be extended.[2] While it is clear that the current cost separations rules are dated and are in need of at least refreshing and in some cases reconstruction, these procedures do, however, produce a stable, certain and sure platform for the recovery of vital network access services. Maintaining this stability is crucial for rural carriers like Comporium who have invested many millions of dollars in building a robust and dependable network.

[2] Independent Telephone and Telecommunications Alliance, National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Eastern Rural Telecom Association ("The Associations") comments at 2 and 7; John Staurulakis, Inc. ("JSI") comments at 5; United States Telecom Association ("US Telecom") comments at 6; BellSouth comments at 6; Western Telecommunications Alliance comments at 4; (all comments filed August 22, 2006).

The FCC currently has several proceedings underway that will surely impact separations reform including intercarrier compensation reform, universal service reform, and the treatment of Internet Protocol-enabled ("IP-enabled") services. Until the Commission concludes its work on these issues and orders new regulations for them, the current freeze should be extended. There are several intercarrier compensation plans under consideration by the Commission including the Missoula Plan, which is currently in the comment and reply comment cycle of evaluation by the public. A future convergence of interstate and intrastate access rates are a central tenet to most plans including the Missoula Plan. If this type of compensation reform evolves, it may eliminate the need for many aspects of jurisdictional separations.

Universal service reform is also being considered and is intertwined with intercarrier compensation. The Comporium companies all receive some form of compensation from the High Cost Program of the Universal Service Fund ("USF"), either Safety Net Support, Local Switching Support, Interstate Common Line Support, High Cost Loop Support or some combination of the above. In most cases, the amount of program revenue Comporium receives is determined by outputs of the cost separations process. Comporium uses these revenues as prescribed by the fund, to build and maintain a reliable network and to meet its carrier of last resort obligations. The Commission should complete USF reform efforts and then begin evaluating how to modify or reform cost separations, and its resulting cost-driven USF metrics, to fit within any new fund specifications.

II. Allow Carriers Remaining Under the Freeze to Make Small Modifications

A. Category Factor Freeze

When the original five-year separations freeze was ordered in 2001, the Commission froze allocation factors and gave companies the option of also freezing their plant investment category relationship factors. Many companies opted for the certainty of the category relationship freeze and made this choice, while others did not. The presumption at the time was that there would be new separations regulations in place at the end of the freeze period and an opportunity for either choice to be re-evaluated.

Since 2001, the industry has seen an evolution in the types of technologies available for deployment. Many carriers have replaced or are in the process of replacing Time Division Multiplexing ("TDM") networks in favor of Internet Protocol ("IP") soft switches. On the other hand, many carriers may be poised to make significant investments in new technologies for their networks, but are hesitant to do so when faced with the possibility of a prolonged freeze within category relationships.[3] These carriers may see a potential disconnect between technology and regulation and must balance this issue with the inevitable evolution of their networks.

Comporium believes no carrier should be penalized for making a decision five years ago based on a future opportunity to re-evaluate their choice. Comporium urges the Commission to allow all carriers to make a one-time change in their status of frozen or floating category relationship factors. This one-time change should also be made available in the future when study areas with a given relationship status are acquired by carriers with a conflicting status.[4]

B. Dial Equipment Minutes Weighting Factor

Comporium supports the commenters who ask the Commission to correct an anomaly in one area of the current separations rules that unfairly penalizes carriers with declining access

[3] The Associations' comments at 12.
[4] US Telecom comments at 9.

lines.[5] Central Office Equipment ("COE") Category 3 is allocated on a traffic factor known as the Dial Equipment Minute ("DEM") factor. This category generally represents the digital switching investment made by carriers and typically contains millions of dollars in investment for even modest size companies. The DEM factor is generally based on a study of the jurisdiction of the total minutes-of-use switched for a given period of time. Companies may weight the interstate portion of the factor by multiples of 3.0, 2.5 and 2.0 depending on the number of access lines reported in the study area, 10,000 and fewer, 10,001-20,000 and 20,001-50,000 respectively. Carriers with more than 50,000 lines per study area receive no interstate DEM weighting.

The current rules allow for changes in the weighting of the factor even when other allocation factors remain frozen. As access lines increase through the qualifying brackets in a study area, the DEM weighting factor decreases. However, no allowances are made when access line loss by a carrier causes that carrier to recede to a lower bracket. Even rural carriers are seeing access line erosion due to wireless substitution and intermodal competition platforms, principally Internet telephony. This access line loss shifts carriers to different weighting brackets and should allow them to potentially qualify for DEM weighting where they have not before. However, the rules do not concretely establish this concept, and they should be clarified to allow carriers to adopt the DEM factor that is appropriate for their actual study area size.

The weighting factors were created to recognize the unique characteristics of small and rural study areas where costs per subscriber are comparatively higher than urban areas, and rural customers on average generate less interstate traffic than urban customers. Comporium shares John Staurulakis, Inc.'s belief that these rural companies "...have been penalized by not

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[5] The Associations' comments at 10-11, JSI comments at 8-9.

receiving the appropriate amount of settlements to which they are entitled".[6] Comporium urges the Commission to clarify that the DEM weighting factor applies regardless of whether or not a carrier qualifies based on increasing or decreasing access lines. Not doing so would perpetuate an environment on inequity simply due to regulatory silence within the rules.

III. No New Data Requests

In the NPRM, the Commission proposes a draft data request and seeks comment on its utility and usefulness in separations reform efforts.[7] Comporium joins several commenters who believe a new data request is inappropriate at this time.[8] To begin with, the request is quite lengthy and contains many sections which ask for information related to 251(c) interconnection requirements. Many rate-of-return carriers are rural-exempt and are not engaged in these interconnection arrangements. The lion's share of this data would be provided by the industry's largest carriers, typically subject to price regulation. Since relief from further separations requirements may be appropriate for these carriers, much of the data would be gathered for no meaningful end.

Also, if the Commission extends the freeze as many within the industry have proposed, the data provided would be stale and outdated before it could be used for any meaningful analysis. Further, an intercarrier compensation reform solution creating uniform rates between interstate and intrastate jurisdictions may render most of the separations regulations obsolete. As a result, this data would be of little use given the need for a new approach to separations reform based on conformed access rates. Comporium believes much useful data exists in the way of cost

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[6] JSI comments at 9.
[7] *Separations* FNPRM at ¶ 31-32.
[8] The Associations' comments at 14; US Telecom comments at 9; JSI comments at 9 – 10; AT&T Inc. comments at 10.

study documentation provided by carriers to the National Exchange Carrier Association ("NECA"), and that this data could be formatted to provide the Commission with tools for analysis. Therefore, we ask the Commission to refrain from issuing a new data request.

CONCLUSION

We urge the Commission to extend the current freeze until intercarrier compensation and universal service issues are decided. We also believe carriers should have an opportunity to adjust their category relationships, and the Commission should address the DEM weighting issues we and others presented. Finally, Comporium requests the Commission not prescribe a new data request in the name of furthering the record on separations, but instead use currently available information for any required analysis.

Respectfully Submitted,

Comporium

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